

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
January 20, 2004

**D042414        In re Michael G. et al., Juveniles**

The judgments are reversed. The matters are remanded to the Juvenile court to accept the Agency's filing of the notices it sent to BIA and to determine whether the notices were adequate and proper. If the notices are sufficient, the court is to reinstate the judgments, based on BIA's response indicating the children are not Indian children under ICWA or BIA's lack of response. If the notices are insufficient or if Agency does not have copies of the notices to provide to the court, the court must order Agency to send a new notice to BIA and to file copies of the notices, return receipts and BIA's response, if any, with the court. If upon proper notice, the BIA or a tribe determines the children are Indian children under ICWA, the court shall conduct the detention, disposition and all subsequent hearings in accordance with ICWA. Aaron, J.; We Concur: McConnell, P.J., Nares, J.

**D041394        People v. McDonald et al.**

The judgments are affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D043140        Fesco v. LeBeau**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**D042913        Lester v. Maxim Systems, Inc., et al.**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

**D042663        In re Christopher B., a Juvenile**

The portion of the July 21, 2003 order denying Grandmother de facto parent status is reversed and the juvenile court is directed to enter an order granting Grandmother de facto parent status. In all other respects, the order of July 21, 2003, is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

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**D039913        People v. McIntyre**

The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D041406        In re Marriage of Stephens**

The order is affirmed. Sean Stephens is awarded costs on appeal. McConnell, P.J.,  
We Concur: Nares, J., Irion, J.

**D041876        Atiga v. San Diego Union Tribune et al.**

The judgment is affirmed. Defendants to recover their costs on appeal. Benke, J.;  
We Concur: McConnell, P.J., McDonald, J.

**D040587        People v. Randle**

**D042803        In re Randle on Habeas Corpus**

The pending petition for writ of habeas corpus, In re Michael R. Randle D042803, is consolidated with  
the pending appeal, People v. Michael Rochelle Randle, D040587, for disposition.

**D040587        People v. Randle**

**D042803        In re Randle on Habeas Corpus**

We reverse the conviction for assault with a deadly weapon on German Juarez (count 3) and direct the  
court to modify the abstract of judgment accordingly and send the corrected abstract to the Department of  
Corrections. The judgment is affirmed in all other respects. The petition for writ of habeas corpus is  
denied. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.

**D042114        Kolker v. Goldberg et al.**

The judgment is affirmed. Respondent shall recover their costs on appeal. Appellant's request for legal  
fees is denied. McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D042497        Adoption of Rianna D.**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Benke, J.

**D040625        People v. Garcia**

The judgment is affirmed. Benke, Acting P.J.; I Concur: Haller, J., I Dissent (by opinion): McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D042579        In re Abarca on Habeas Corpus**

The petition is denied.

**D042349        In re James I., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Irion, J.

**D043461        In re Johnson on Habeas Corpus**

The petition is denied without prejudice.

**D040226        Ward v. Bierer**

The judgment is affirmed. Bierer is awarded costs on appeal. McConnell, P.J.; We Concur: Huffman, J., Aaron, J.

**D042616        In re M.R., a Juvenile**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D043534        In re Phelps on Habeas Corpus**

The petition is denied.

**D042335        Jones v. Superior Court of San Diego County/People**

Let a writ of mandate issue directing the superior court to vacate its order of June 9, 2003, and to enter a new and different order consistent with this opinion. CERTIFIED FOR PUBLICATION.

Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D043574        In re Penny on Habeas Corpus**

The petition for writ of habeas corpus in re Penny D043574, will be considered at the same time as the pending appeal People v. Penny D041523.

**D042701        In re J.B. et al., Juveniles**

The orders are affirmed. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

**D041151        People v. Jordan**

The judgment is affirmed. O'Rourke, J.; I Concur: McConnell, P.J., I Dissent: McDonald, J. (opinion)

**D040637        Rancho Santa Fe Association v. Dolan-King**

**D041486        Rancho Santa Fe Association v. Dolan-King**

(consolidated) The opinion filed January 7, 2004 is ordered certified for publication.

**D042733        In re Brittany W., a Juvenile**

The judgment terminating parental rights is reversed. This matter is remanded to the juvenile court for new section 366.26 hearing to determine a permanent plan for Brittany. The remittitur is to issue forthwith. (Cal. Rules of Court, rule 26(c)(1).) Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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January 23, 2004

**D041653        Harris v. Commonwealth Land Title Insurance Company**

We reverse the January 31, 2003 order denying Commonwealth's petition to compel arbitration. We remand the matter to the superior court to enter an order: (1) compelling arbitration in accordance with the title insurance policy issued by Commonwealth Land Title Insurance Company to Marianna Harris, and (2) staying this action pending completion of the arbitration. The remittitur shall issue immediately. Each party shall bear its own costs on appeal. Haller, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D041615        People v. Boles**

The judgment is reversed and the matter remanded for resentencing. If the court finds the sex offender registration requirement should be imposed, Boles shall be given the option of withdrawing his plea and the dismissed charges shall be reinstated. If Boles chooses not to withdraw his plea, then the trial court shall reinstate the judgment. Haller, J.; We Concur: Benke, J., McDonald, J.

**D042588        People v. Navarrete**

**D042986        People v. Navarrete**

Appellant's motion to consolidate the above-entitled appeals is granted. All documents will be filed under D042588.

**D041848        Gallerstein et al. v. Acker**

The order denying Acker's motion to strike the complaint is affirmed. Aaron, J.;  
We Concur: Huffman, Acting P.J., Nares, J.

**D043498        In re the Marriage of Luk**

The appeal from the October 16, 2003 custody and visitation orders is dismissed as untimely.

**D043037        In re the Marriage of Opiela**

The appeal is dismissed.